

# Morgan Lewis

**Michael F. Fleming**

Associate  
+1.212.309.6207  
michael.fleming@morganlewis.com

July 13, 2023

**VIA ECF AND EMAIL**

Hon. Katherine Polk Failla  
United States District Judge  
United States District Court for the Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square, Courtroom 618  
New York, NY 10007  
[Failla\\_NYSDChambers@nysd.uscourts.gov](mailto:Failla_NYSDChambers@nysd.uscourts.gov)

**Re: von der Schmidt et al. v. Morgan Stanley et al., Case No. 22-cv-08198-KPF**

Your Honor:

We represent Defendants Morgan Stanley, Matthew Hornbach, and Denise McCool (collectively, "Defendants") in the above-referenced action. We write in brief response to the letter filed by Plaintiffs on July 8, 2023 (Dkt. No. 36). Plaintiffs' letter attaches an email exchange that was plainly marked: "Confidential – Subject to FRE 408." We request that the Court strike Dkt. No. 36 and order Plaintiffs to re-file their letter without improperly including confidential settlement discussions. Unless invited to do so by this Court, Defendants will not address the other extraneous statements, ad hominem attacks, and arguments contained in Plaintiff's letter, except to state that they are inaccurate or irrelevant to any pending issue before the Court.

Respectfully submitted,



*/s/ Michael F. Fleming*

Michael F. Fleming

C: All Counsel of Record (via ECF)

**Morgan, Lewis & Bockius LLP**

101 Park Avenue  
New York, NY 10178-0060  
United States

 +1.212.309.6000  
 +1.212.309.6001